

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 16-2022

Julie Miller,

Plaintiff,

v.

Starkey Laboratories, Inc.,

**NOTICE OF REMOVAL OF
A CIVIL ACTION TO
FEDERAL COURT**

Defendant.

The United States of America, by its attorneys Andrew M. Luger, the United States Attorney for the State and District of Minnesota, and Lola Velazquez-Aguilu, Craig R. Baune, and Erin M. Secord, Assistant United States Attorneys, hereby give notice to the plaintiff and to the state court as follows:

1. This matter is now pending in the Fourth Judicial District, Hennepin County District Court, Minneapolis, Minnesota, entitled *Julie Miller v. Starkey Laboratories, Inc.*, Court File No. 27-CV-16-821 and that trial has not yet been had therein.

2. That the above-entitled action was commenced on January 20, 2016, against Defendant Starkey Laboratories, Inc. Copies of all process and pleadings (Complaint and supporting materials) are attached as **Exhibit 1**.

3. On June 20, 2016, the Honorable Kevin S. Burke of the Hennepin County District Court orally issued an order against and directed to the United States of America denying its Motion for Rule 24.02 Permissive Intervention. In addition, a copy of the

Court's Order Dated June 20, 2016 that was filed in the related *Guggenberger* matter that also relates to the *Miller* matter is attached as **Exhibit 2**.

4. This notice of removal is filed pursuant to 28 U.S.C. § 1442(a)(1) because the Hennepin County District Court's Order on June 20, 2016, is "against or directed to" the United States. *See, e.g., Peoples Nat'l Bank of Mora v. BWHC, LLC*, No. 08-cv-408 (PJS/JJG), 2008 WL 10973336 (D. Minn. Oct. 10, 2008). Further, the United States has raised issues in response to the Plaintiff's requested discovery that arise out of its obligations to enforce federal law. *See* Fed. R. Crim. P. 6(e).

WHEREFORE, notice is hereby given that the said action is removed from the state court into this court for trial or such other determination as this court may make regarding the action in accordance with its jurisdictional limits pursuant to 28 U.S.C. § 1442.

Dated: June 20, 2016

Respectfully submitted,

ANDREW M. LUGER
United States Attorney

s/ Erin M. Secord
BY: LOLA VELAZQUEZ-AGUILU
Assistant U.S. Attorney
Attorney ID No. 0389486
CRAIG R. BAUNE
Attorney ID No. 0331727
ERIN M. SECORD
Assistant U.S. Attorney
Attorney ID No. 0391789
600 U.S. Courthouse
300 South Fourth Street
Minneapolis, MN 55415
(612) 664-5600
lola.velazquez-aguilu@usdoj.gov
craig.baune@usdoj.gov
erin.secord@usdoj.gov

Erin M. Secord, declares under penalty of perjury as provided by 28 U.S.C. § 1746, that she is an Assistant United States Attorney for the District of Minnesota and represents the defendant named herein; that she has read the foregoing notice and knows the contents thereof; that the same is true of her own knowledge, except as to any matters stated therein on information and belief and as to those matters she believes them to be true.

Dated: June 20, 2016

s/ Erin M. Secord
ERIN M. SECORD
Assistant United States Attorney